



Federal Communications Commission  
Washington, D.C. 20554

APR 9 1998

EX PARTE OR LATE FILED **RECEIVED**

APR 13 1998

The Honorable Jeff Bingaman  
United States Senator  
119 E. Marcy Street  
Suite 101  
Santa Fe, NM 87501

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Dear Senator Bingaman:

Thank you for your inquiry on behalf of your constituent, Mayor Frederick A. Peralta of Taos, New Mexico, concerning the placement and construction of facilities for the provision of personal wireless services and radio and television broadcast services in his community. Your constituent's letter refers to issues being considered in three proceedings that are pending before the Commission. In MM Docket No. 97-182, the Commission has sought comment on a Petition for Further Notice of Proposed Rule Making filed by the National Association of Broadcasters and the Association for Maximum Service Television. In this proceeding, the petitioners ask the Commission to adopt a rule limiting the exercise of State and local zoning authority with respect to broadcast transmission facilities in order to facilitate the rapid build-out of digital television facilities, as required by the Commission's rules to fulfill Congress' mandate. In WT Docket No. 97-192, the Commission has sought comment on proposed procedures for reviewing requests for relief from State and local regulations that are alleged to impermissibly regulate the siting of personal wireless service facilities based on the environmental effects of radio frequency emissions, and related matters. Finally, in DA 96-2140 and FCC 97-264, the Commission twice sought comments on a Petition for Declaratory Ruling filed by the Cellular Telecommunications Industry Association seeking relief from certain State and local moratoria that have been imposed on the siting of commercial mobile radio service facilities.

Because all of these proceedings are still pending, we cannot comment on the merits of the issues at this time. However, I can assure you that the Commission is committed to providing a full opportunity for all interested parties to participate. The Commission has formally sought public comment in all three proceedings and, as a result, has received numerous comments from State and local governments, service providers, and the public at large. Your constituent's letter, as well as this response, will be placed in the record of all three proceedings and will be given full consideration.

At the same time, the Commission is actively pursuing initiatives that we hope will render any Commission action limiting State and local authority unnecessary. Commission staff, working with the Commission's Local and State Government Advisory Committee, is bringing together representatives of industry and municipal governments to discuss mutually acceptable solutions to the challenges posed by facilities siting. Chairman Kennard has stated that preemption of local zoning authority should be a remedy of last resort, and that the Commission should not consider preemption until the possibilities for constructive dialogue have been exhausted.

Further information regarding the Commission's policies toward personal wireless service facilities siting, including many of the comments in the two proceedings involving personal wireless service facilities, is available on the Commission's internet site at <http://www.fcc.gov/wtb/siting>.

Thank you for your inquiry.

Sincerely,



*for* Steven E. Weingarten  
Acting Chief, Commercial Wireless Division  
Wireless Telecommunications Bureau

cc: CWD  
Dockets (2)  
John Conwell  
j:\congress\9707427

JEFF BINGAMAN  
NEW MEXICO

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Senator: bingaman@bingaman.senate.gov

# United States Senate

November 10, 1997

*MMB  
97182  
1427*

Ms. Karen Kornbluh  
Director, Office of Legislative and Intergovernmental Affairs  
Federal Communications Commission  
Room 808  
1919 M Street, N.W.  
Washington, D.C. 20554

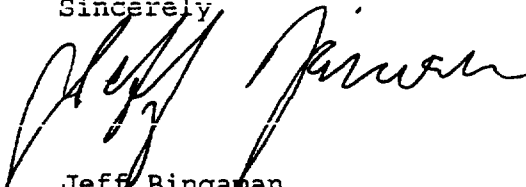
Dear Karen:

I have received the enclosed letter from Frederick A. Peralta.

I would appreciate your looking into this matter and reporting back to me on your findings. Please send your response to the attention of Ocean Munds in my Santa Fe office, 119 E. Marcy St. Suite 101, Santa Fe, NM 87501, or call her at (505) 988-6647.

Thank you for your assistance in this matter.

Sincerely,



Jeff Bingaman  
United States Senator

JB/SOM

PLEASE REPLY TO:

625 SILVER AVE., SW, SUITE 130  
ALBUQUERQUE, NM 87102  
(505) 766 3636

148 LORETTO TOWNE CENTRE  
505 SOUTH MAIN  
LAS CRUCES, NM 88001  
(505) 523 6561

P.O. BOX 1977  
118 BRIDGE STREET, SUITE 3  
LAS VEGAS, NM 87701  
(505) 454 8824

105 WEST THIRD, SUITE 409  
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(505) 622 7111

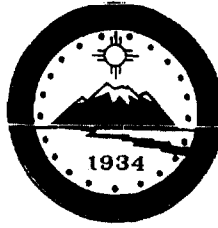
119 E. MARCY, SUITE 101  
SANTA FE, NM 87501  
(505) 988 6647

**Frederick A. Peralta, Mayor**

*Councilmembers:*

**Bobby F. Duran  
Frank J. Cruz  
Erlinda S. Gonzales  
Meliton Struck**

**Gustavo Cordova, Town Manager**



**Taos Municipal Building  
400 Camino de la Placita**

**Taos, New Mexico 87571**

**(505) 751-2000  
Fax: (505) 751-2026**

**October 28, 1997**

**Honorable Jeff Bingaman  
US Senator  
Hart Office Building, SH-703  
2<sup>nd</sup> and C Streets, NE  
Washington, DC 20510**

**Dear Senator Bingaman:**

As you may be aware, the Federal Communications Commission in late August issued two new rules where it is proposing to preempt local zoning over cellular, radio, and television towers. The proposed rules would make the FCC the federal zoning commission for all cellular and broadcast towers.

These new rules represent an unprecedented attack on local zoning authority by the FCC. The 1996 Telecommunications Act reaffirmed the local zoning authority over cellular towers. Despite the clear intent of Congress, the FCC is proposing to change this through the rulemaking process.

It is my understanding that William Kennard, Chairman of the FCC is supporting this rule change. We need your support to contact the commission that the preemption of local zoning authority is strongly opposed by local governments.

We also need to appeal to New Mexico's own, Gloria Tristani, who was recently appointed to serve on the commission.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "F. Peralta", is written over a horizontal line.

**Frederick A. Peralta  
MAYOR**

**Cc: Town Council members  
Executive Director, NMML  
Director of Planning  
Mr. William F. Caton, Acting Secretary  
Federal Communications Commission**